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(Original Signature of Member)

117TH CONGRESS
2D SESSION

H. R. _____

To provide for the expedited and duty-free importation of infant formula that may be lawfully marketed in the European Union, Canada, Japan, or the United Kingdom and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. SHERMAN introduced the following bill; which was referred to the Committee on _____

A BILL

To provide for the expedited and duty-free importation of infant formula that may be lawfully marketed in the European Union, Canada, Japan, or the United Kingdom and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Emergency Infant For-
5 mula Act”.

6 **SEC. 2. EXPEDITED IMPORTATION OF INFANT FORMULA.**

7 (a) AUTHORIZATION FOR IMPORTATION AND SALE.—

1 (1) DECLARATION OF SHORTAGE.—The Presi-
2 dent may declare, in consultation with the Commis-
3 sioner of Food and Drugs and through Executive
4 Order, that a shortage exists in the United States of
5 infant formula with respect to any period specified
6 in such Order.

7 (2) AUTHORIZATION FOR IMPORTATION AND
8 SALE.—The President may authorize the importa-
9 tion, distribution, and sale of any covered infant for-
10 mula, notwithstanding the provisions of the Federal
11 Food, Drug, and Cosmetic Act (21 U.S.C. 201 et
12 seq.), if the applicable brand, manufacturer, or man-
13 ufacturing plant, or the specific infant formula prod-
14 uct, is included in the Executive Order promulgated
15 pursuant to the authority provided by paragraph
16 (1). Such Executive Order may further specify, with
17 respect to such authorized products, specific require-
18 ments with respect to the labeling or usage guidance
19 to be eligible for importation, distribution, and sale
20 pursuant to the authority provided by this para-
21 graph.

22 (3) LABELING REQUIREMENTS.—

23 (A) EXEMPTION FROM UNITED STATES LA-
24 BELING REQUIREMENTS.—Any provision of the
25 Federal Food, Drug, and Cosmetic Act (21

1 U.S.C. 201 et seq.) relating to labeling require-
2 ments for infant formula products imported
3 into the United States shall not apply with re-
4 spect to such products imported pursuant to
5 the authority provided by paragraph (2).

6 (B) REQUIREMENT WITH RESPECT TO
7 FOREIGN MARKETING ELIGIBILITY.—Notwith-
8 standing subparagraph (A), the Commissioner
9 of Food and Drugs shall require any retailer of
10 covered infant formula imported subject to the
11 authority provided by paragraph (2), including
12 an online retailer, to include in an appropriate
13 and conspicuous place next to the product or
14 description of the product, as applicable, a
15 label—

16 (i) that indicates that such product
17 has not been approved for importation, dis-
18 tribution, or sale by the Commissioner of
19 Food and Drugs and is authorized for sale
20 only subject to the provisions of this Act;
21 and

22 (ii) that may additionally indicate the
23 foreign country or countries where such
24 product may be lawfully marketed.

1 (4) TERMINATION OF SHORTAGE.—The Presi-
2 dent may, upon determining that a shortage no
3 longer exists in the United States of infant formula,
4 terminate a declaration described in paragraph (1).

5 (b) DUTY-FREE TREATMENT.—Notwithstanding any
6 other provision of law, the President may, during any pe-
7 riod in which an infant formula shortage is declared in
8 accordance with subsection (a)(1), reduce or suspend any
9 duties imposed—

10 (1) with respect to the importation of covered
11 infant formula; or

12 (2) with respect to any other article used in the
13 production of infant formula that the importer cer-
14 tifies is being imported for such production.

15 (c) PRIORITY HANDLING OF ENTRIES.—During any
16 period in which an infant formula shortage is declared in
17 accordance with subsection (a)(1), the Commissioner of
18 U.S. Customs and Border Patrol shall give the highest pri-
19 ority and take any steps as may be necessary to expedite
20 the processing of all entries of covered infant formula and
21 articles used in the production of infant formula (as de-
22 scribed in subsection (b)(2)).

23 (d) COVERED INFANT FORMULA.—In this Act, the
24 term “covered infant formula” means any infant formula,
25 as defined in section 201 of the Federal Food, Drug, and

1 Cosmetic Act (21 U.S.C. 201), that is lawfully marketed
2 in the European Union, Canada, Japan, or the United
3 Kingdom.

4 (e) USE OF DEFENSE PRODUCTION ACT AUTHORI-
5 TIES.—During any period in which an infant formula
6 shortage is declared in accordance with subsection (a)(1),

7 (1) the President may use authorities provided
8 by the Defense Production Act of 1950 (50 U.S.C.
9 4501 et seq.) in the production of infant formula;
10 and

11 (2) infant formula shall be deemed to meet the
12 criteria specified in section 101(b) of such Act.